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Supreme Court, U.S.
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No. 94-205

IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

JEROME H. FIELD,

Petitioner,

vs.

DONALD J. EASTON, NAP'S TRUCK LEASING CORP. and SWAN TRUCKING CORP.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

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STATEMENT OF THE CASE

Petitioner continues in his crusade to enlarge a simple negligence case to a matter of significance for the entire nation. A review of the record reveals that throughout this matter, plaintiff has refused to accept the strong judgments of the various tribunals before which he has pled his case, namely, the jury, the trial court and the Second Circuit Court of Appeals.

Petitioner has now reached the final arbiter. Once again, his prose is a melange of thoughts loosely knit together. Syntax fades away at times. Terms such as "Fourth Amendment Rights", "Due Process" and other well-worn phrases are interspersed throughout so as to give his prose a faux-legitimacy. However, his Petition is devoid of an arguable basis as to why Certiorari should be granted. The Peti

tion does not contain a single legal argument that sets forth precisely how the Second Circuit has ". . . decided a federal question in a way that conflicts with applicable decisions of this Court", or ". . . an important question of federal law which has not been, but should be, settled by this Court . . . ." Sup. Ct. R. 10.1(c). Nor has Petitioner demonstrated, that the Second Circuit ". . . has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision." Sup. Ct. R. 10.1(a).

SUMMARY OF ARGUMENT

In his post trial motions and appeal to the Second Circuit, as well as in the this Petition, Petitioner's rambling arguments have clustered around certain recurring

themes, to wit, that the district court wrongfully a) bifurcated his trial; b) excluded certain documents from evidence; c) wrongfully instructed the jury; and d) wrongfully awarded sanctions to the defendant-respondents. Petitioner now claims that the Second Circuit erred in affirming the actions of the lower court. Yet, Petitioner's contentions lack any legal basis.

ARGUMENT

I. Exclusion of Evidence.

During the course of his trial, the Petitioner attempted to introduce certain U.S. Department of Transportation inspection reports regarding defendant-respondent's vehicle, namely, inspections performed approximately two years prior and four months subsequent to the accident. These reports were properly excluded by the trial court on the basis that they had

little, if any, relevance to the facts in issue. The Second Circuit properly found that the lower court did not abuse its discretion in failing to admit same. Petitioner has set forth no legal basis for review of the Second Circuit's decision.

II. Bifurcation:

The Petition sets forth no basis as to why the Second Circuit's holding that the trial court did not abuse its discretion in ordering bifurcation under Fed. R. Civ. P. 42(b) merits review by this Court under the criteria set forth in Sup. Ct. R. 10.

III. Jury Charges:

Petitioner fails to set forth a legal basis as to why the Second Circuit's finding that the charge of the trial court "presented the liability issues to the jury in an evenhanded manner" (Field v.

Easton, No. 93-7775 (U.S. Ct. App. 2d Cir. filed April 25, 1994, A. 8), merits review by this Court under Sup. Ct. R. 10.

IV. Sanctions:

The Second Circuit found that the trial court did not abuse its discretion when it awarded sanctions against Petitioner for designating as an "expert" witness someone whose expertise consisted solely of reading portions of textbooks. Field v. Easton, No. 93-7775 (U.S. Ct. App. 2d Cir. filed April 25, 1994, A. 7-8). Petitioner now appears to be arguing that Rule 11 gives a trial court no authority to impose sanctions for abuses occurring at or during depositions and that the Appellate Court erred in affirming the award. The version of Rule 11 in effect at the time of the acts committed by Petitioner provided "[e]very pleading, motion or other paper shall be signed by

at least one attorney of record . . ." and that such signature shall constitute a certification ". . . that to the best of the signer's knowledge, information and belief formed after reasonable inquiry [such pleading, motion or other paper] is well grounded in fact . . ." and allowed a trial court to impose sanctions for pleadings, motions or other papers signed in violation of the Rule. Fed. R. Civ. P. 11 (as amended Apr. 28, 1983, eff. Aug 1, 1983; Mar. 2, 1987; eff. Aug. 1, 1987; amended Apr. 22, 1993, eff. Dec. 1, 1993). It is uncontested that Petitioner himself signed documents designating his so-called expert. Therefore, the award of sanctions by the trial court, and its affirmance by the Second Circuit was proper in all respects.

CONCLUSION

Respondent respectfully requests that the within Petition be denied.

Dated: August 26, 1994
Garden City, New York

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